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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,637	12/23/2003	Alok Singh	NC 84,598	9922

26384 7590 11/21/2005

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EXAMINER

GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1655

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/750,637	Applicant(s) SINGH ET AL.	
	Examiner Ralph Gitomer	Art Unit 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election without traverse of Group I, claims 1-16, in the reply filed on 10/14/05 is acknowledged. Please inform the examiner of any related cases.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 4, 6-9 are rejected under 35 U.S.C. 102(a) as being anticipated by Lee.

Lee (Langmuir) entitled "Sustained Enzyme Activity of Organophosphorus Hydrolase in Polymer Encased Multilayer Assemblies" teaches multilayer materials to degrade toxic organophosphorus compounds. In Fig. 1 end capping monomers are shown. On page 1331 column 1 polyelectrolyte layers are taught. In column 2 glass beads are taught which reads on silica particles.

All the features of the claims are taught by Lee for the same function as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 3, 5, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lee in view of Singh.

The claims differ from Lee in that they specify metal chelated catalytic particles are on the silica microparticles.

Singh (6,869,784 B2) entitled "Passivation of Nerve Agents by Surface Modified Enzymes Stabilized by Non-Covalent Immobilization on Robust, Stable Particles" teaches in column 2 lines 54-55, silica particles can be used as substrates for enzyme immobilization. In column 5 Cu⁺²-IDA was applied to the particles with EDTA.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to immobilized the enzymes on the substrates of Lee and to additionally stabilize the enzymes with the metal chelate of Singh because Singh teaches the metal chelate further stabilizes the same enzymes for the same function as those taught by Lee. To combine both the end capping of Lee with the metal chelate of Singh for their known function of stabilizing the enzymes with the expected result would

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have been obvious because the references cited herein discuss the difficulty in stabilizing the enzymes.

Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for specific polyelectrolytes such as those shown on page 5 of the present specification and specific end capping agents such as those shown on page 6 of the present specification, does not reasonably provide enablement for any polyelectrolyte or end-capping agent. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. Further, in claim 7, "chemically altered derivatives" reads on most any organic compound which is not enabled by the present specification.

In claim 1 the terms "polyelectrolyte" and "end capping agent" lack enablement as it would require one of ordinary skill in this art undue experimentation to determine which such substance would work in the instant invention. Further, in claim 10, "metal chelated catalytic particles" and "functionalized catalytic particles" would require one of ordinary skill in this art undue experimentation to determine which such substance would work in the instant invention.

The entire scope of the claims has not been enabled because:

1. Quantity of experimentation necessary would be undue because of the large proportion of inoperative compounds claimed.

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2. Amount of direction or guidance presented is insufficient to predict which substances encompassed by the claims would work.
3. Presence of working examples are only for specific substances and extension to other compounds has not been specifically taught or suggested.
4. The nature of the invention is complex and unpredictable.
5. State of the prior art indicates that most related substances are not effective for the claimed functions.
6. Level of predictability of the art is very unpredictable.
7. Breadth of the claims encompasses an innumerable number of compounds.
8. The level of one of ordinary skill in this art is variable.

In re Wands, 858 F.2d 731, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

In claim 7, "their chemically altered derivatives" renders the claim indefinite because whose derivatives is not seen, how they may be altered is not set forth, and derivatives reads on any compound that could be made from the stated compounds.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Singh (US 2005/0136523 A1) is a CIP of the present application.

Chen (6,589,731) teaches detecting biological agents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ralph Gitomer
Primary Examiner
Art Unit 1655

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